

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PROFESSIONAL GUARDIAN BOARD

In Re

PGB No. 2001-0005

Lynne Denise Meigs,

AGREEMENT REGARDING  
DISCIPLINE (DECERTIFICATION)

Certified Professional Guardian  
No. 5281

Respondent.

The Washington Professional Guardian Board (Board) and Lynne Denise Meigs Mercata (Respondent) hereby enter into the following Agreement Regarding Discipline (Decertification), pursuant to the Board's Disciplinary Regulations, Section E, as follows:

1. Respondent was provisionally certified as a Professional Guardian by the Washington Supreme Court in 1999.

2. Respondent was certified as a Professional Guardian (CPG) by the Washington Supreme Court on April 13, 2001. Her Certified Professional Guardian Number is 5281.

3. Respondent operated an uncertified guardianship agency known as Fidelity Guardian Services (Fidelity.) Respondent was the sole employee of Fidelity. Although Respondent filed an application requesting that Fidelity be certified as a Professional Guardianship Agency, Fidelity was never certified as a Professional Guardianship Agency by the Washington Supreme Court. Even though it was not a certified professional guardian agency pursuant to GR 23, Fidelity accepted appointments by the Pierce County Superior Court as the guardian for several individuals in Pierce County, Washington.

4. Respondent, in her capacity as an individual CPG, was appointed as the guardian for several individuals in Pierce County.

5. On April 18, 2001, Respondent advised the Professional Guardian Board that on April 11, 2001, the Pierce County Superior Court had removed Respondent and Fidelity as the guardian in the following cases:

88-4-01196-9

88-4-01197-7

88-4-01198-5

90-4-01615-6

1 96-4-00100-0  
2 96-4-01198-6  
3 96-4-01701-1  
4 97-4-00192-0  
5 98-4-00907-4  
6 98-4-01582-1  
7 99-4-00463-1  
8 99-4-00464-0  
9 99-4-00491-7  
10 99-4-00579-4  
11 99-4-00894-7  
12 99-4-00980-3  
13 99-4-01063-1  
14 99-4-01064-0  
15 99-4-01073-9  
16 99-4-01319-0  
17 99-4-01320-7  
18 99-4-01616-8  
19 99-4-01655-9  
20 99-4-01682-6  
21 99-4-01683-4  
22 99-4-01778-4  
23 99-4-01779-2  
24 00-4-00161-7  
25 00-4-00558-2  
00-4-00559-1  
4-83450

6. A copy of the findings of fact and conclusions of law entered April 30, 2001 by Commissioner James Marshall, removing Respondent and Fidelity as a guardian from all cases, is attached hereto as Exhibit 1 and incorporated herein by reference.

7. A copy of the order of the Honorable Sergio Armijo, Judge of the Pierce County Superior Court, dated April 25, 2001, removing Respondent and Fidelity as the guardian of K, is attached hereto as Exhibit 2 and incorporated herein by reference.

8. A copy of the Order of the Honorable Vicki L. Hogan, Judge of the Pierce County Superior Court, denying Respondent's and Fidelity's Motions for Revision of Commissioner Marshall's decision and for reconsideration of Judge Armijo's decision, dated June 7, 2001, is attached hereto as Exhibit 3 and incorporated herein by reference.

9. The Pierce County Superior Court notified the Board by letter of its actions removing for cause Respondent and Fidelity as guardians in the above-listed cases. As a result of the Court's letter, the Board appointed a Review Panel to investigate Meig's conduct as a guardian in the cases in which she was removed by the court. By letter dated July 24, 2001, the Review Panel asked Respondent to appear before the panel to provide information about the actions taken by the Pierce County Superior Court, as set forth

1 above. Respondent was advised that she had the right to counsel, at her own expense, at  
2 the meeting with the Review Panel. She also had the right bring any materials she would  
like the panel to consider, and any witnesses she would like to have speak on her behalf.

3 10. On August 9, 2001, the Board received a letter from Respondent in which she stated  
4 that doing the paperwork in her guardianship cases had become "overwhelming." She  
5 admitted that the checking accounts on some of her cases were overdrawn. Other than  
6 paying a consultant for advice, Respondent hired no one to assist her in case  
management, accounting, or office support, and had no employees throughout her  
appointment in the above-referenced cases. A copy of her letter to the Board is attached  
as Exhibit 4 and incorporated herein by reference.

7  
8 11. On August 13, 2001, Respondent met with the Review Panel assigned to investigate  
9 her case. She was not accompanied by an attorney. She acknowledged that she had the  
right to have an attorney present with her, at her expense, and that she was choosing to  
proceed without an attorney. Respondent was then placed under oath by Commissioner  
10 Fred Aronow, the Chair of the Review Panel. Respondent told the Panel that she wanted  
to resign her certificate as a CPG. She stated that she had been unable to keep up with  
11 the paperwork in her cases, that she had become overwhelmed by her caseload and as a  
result, she had not filed necessary documents, reports and accountings with the court on  
12 her guardianships as required by law. She admitted that in several of her cases, where  
the incapacitated persons (ICPs) had died, she had not commenced probate actions. She  
13 admitted that some checks she had written on guardianship accounts to pay the expenses  
of ICPs had been returned because of insufficient funds in the accounts. She admitted  
14 that she had not yet fully accounted to the court for all funds under her management as a  
guardian. She admitted taking cases in the name of Fidelity, although she knew Fidelity  
15 had not been certified by the Supreme Court as a Professional Guardian Agency.

16 12. On August 13, 2001, Respondent stated to the Review Panel that she was no longer a  
17 guardian for any ICPs in the state of Washington, either individually or through her  
agency, Fidelity. Respondent stated that she had been appointed as a guardian in only  
18 one case outside of Pierce County and that was in King County, which she had  
previously disclosed to the Board.

19  
20 13. At the Panel's request, Respondent again requested in writing that she be allowed to  
21 resign her certificate as a professional guardian, by letter dated August 31, 2001. A copy  
of that letter is attached hereto as Exhibit 5 and incorporated herein by reference.

22 14. Respondent's conduct as a guardian violated the Standards of Practice (SOP)  
adopted by the Board that govern the conduct of professional guardians.

23 A. Respondent allowed the court to appoint Fidelity as a guardian in several  
24 cases although Respondent knew Fidelity was not certified as a professional  
guardian agency, in violation of GR 23. Respondent's conduct violated SOP 1.1,  
25 which states:

1 1.1 The guardian shall at all times be thoroughly familiar with RCW  
2 11.88, RCW 11.92, GR 23, these standards, and any other regulations or  
3 statutes which govern the conduct of the guardian in the management of  
4 affairs of an incapacitated person. When a question exists between the  
5 standards and a statute, timely direction shall be sought from the court. If  
6 a guardian is aware of a court order of the court in a specific case which  
7 may lead to a conflict with these regulations, the guardian shall disclose  
8 this to the court.

9 B. In several cases, Respondent failed to open probate cases after ICPs died.  
10 This conduct also violated SOP 1.1.

11 C. Respondent did not timely or otherwise file reports and accountings as  
12 required by law in many of her cases. Respondent's conduct violated SOP 1.3,  
13 which states:

14 The guardian shall provide reports and accountings that are timely,  
15 complete, accurate, understandable, and in a form acceptable to the court.

16 D. Several of the checks written by Respondent as a guardian to pay expenses  
17 of the ICPs were returned by the bank for lack of sufficient funds. Respondent  
18 has not been able to account to the court for all the funds that should be in the  
19 ICPs' bank accounts. Respondent's conduct violated SOPs 6 and 6.1, which  
20 provide as follows:

## 21 6. FINANCIAL MANAGEMENT

22 The guardian shall assure competent management of the property and  
23 income of the estate. In the discharge of this duty, the guardian shall  
24 exercise the highest level of fiduciary responsibility, intelligence,  
25 prudence, and diligence and avoid any self-interest.

6.1 The guardian shall know and obey the law related to managing an  
incapacitated person's estate. Such knowledge shall include statutes  
relating to the investment of assets, restrictions imposed on investing and  
expenditures by RCW 11.88 and 11.92, and laws relating to employment,  
income, and taxes. The guardian shall hire competent professionals as  
appropriate to assure compliance with all statutes and regulations relating  
to the management of funds.

15. Respondent's conduct as a guardian, as set forth in this Agreement, would subject  
Respondent to disciplinary action pursuant to the Disciplinary Regulations for Certified  
Professional Guardians (DR) adopted by the Board, if she did not enter into this  
Agreement. Respondent's conduct provides grounds for discipline pursuant to DR  
sections A.2.B, A.2.C. and A.2.I.

1 16. By her signature hereunder, Respondent enters into this Agreement freely and  
2 voluntarily, having been advised of her right to counsel at her own expense and having  
3 chosen to waive said right.

4 17. By her signature hereunder, Respondent understands and agrees that the Board will  
5 recommend to the Supreme Court that she be decertified as a professional guardian  
6 forwith, for the reasons set forth in this Agreement.

7 18. By her signature hereunder, Respondent understands that her failure to follow  
8 through with this agreement by returning the signed original of this agreement to the  
9 Board care of the Office of the Administrator for the Courts on or before Friday, October  
10 5, 2001 by 4:00 p.m., will result in the Board proceeding with the formal decertification  
11 procedures as set forth in DR Section D by the filing of a formal complaint.

12 19. Respondent has no prior record of discipline in her capacity as a certified  
13 professional guardian.

14 20. This Agreement Regarding Discipline is binding as a statement of all known facts  
15 relating to the conduct of the respondent, but that any additional existing acts may be  
16 proven in any subsequent disciplinary proceeding.

17 21. Respondent shall not owe any costs, restitution or expenses as a result of this  
18 disciplinary proceeding.

19 22. This Agreement Regarding Discipline shall be retained by the OAC in the  
20 Respondent's disciplinary file with notice of the discipline imposed sent to all superior  
21 courts in the state of Washington.

22 Lynne Denise Meigs Mercata 10/1/01  
23 Lynne Denise Meigs Mercata Date  
24 CPG # 5281

25 Professional Guardian Board

[Signature] 10/15/01  
By Commissioner Fred Aronow, Date  
Vice-Chair